

AFRICAN GROWTH AND OPPORTUNITY ACT

MARCH 2, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GILMAN, from the Committee on International Relations,
submitted the following

REPORT

[To accompany H.R. 1432]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 1432) to authorize a new trade and investment policy for sub-Saharan Africa, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “African Growth and Opportunity Act”.

SEC. 2. FINDINGS.

The Congress finds that it is in the mutual economic interest of the United States and sub-Saharan Africa to promote stable and sustainable economic growth and development in sub-Saharan Africa. To that end, the United States seeks to facilitate market-led economic growth in, and thereby the social and economic development of, the countries of sub-Saharan Africa. In particular, the United States seeks to assist sub-Saharan African countries, and the private sector in those countries, to achieve economic self-reliance by—

- (1) strengthening and expanding the private sector in sub-Saharan Africa, especially women-owned businesses;
- (2) encouraging increased trade and investment between the United States and sub-Saharan Africa;
- (3) reducing tariff and nontariff barriers and other trade obstacles;
- (4) expanding United States assistance to sub-Saharan Africa’s regional integration efforts;
- (5) negotiating free trade areas;
- (6) establishing a United States-Sub-Saharan Africa Trade and Investment Partnership;
- (7) focusing on countries committed to accountable government, economic reform, and the eradication of poverty;

(8) establishing a United States-Sub-Saharan Africa Economic Cooperation Forum; and

(9) continuing to support development assistance for those countries in sub-Saharan Africa attempting to build civil societies.

SEC. 3. STATEMENT OF POLICY.

The Congress supports economic self-reliance for sub-Saharan African countries, particularly those committed to—

- (1) economic and political reform;
- (2) market incentives and private sector growth;
- (3) the eradication of poverty; and
- (4) the importance of women to economic growth and development.

SEC. 4. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—A sub-Saharan African country shall be eligible to participate in programs, projects, or activities, or receive assistance or other benefits under this Act if the President determines that the country does not engage in gross violations of internationally recognized human rights and has established, or is making continual progress toward establishing, a market-based economy, such as the establishment and enforcement of appropriate policies relating to—

- (1) promoting free movement of goods and services between the United States and sub-Saharan Africa and among countries in sub-Saharan Africa;
- (2) promoting the expansion of the production base and the transformation of commodities and nontraditional products for exports through joint venture projects between African and foreign investors;
- (3) trade issues, such as protection of intellectual property rights, improvements in standards, testing, labeling and certification, and government procurement;
- (4) the protection of property rights, such as protection against expropriation and a functioning and fair judicial system;
- (5) appropriate fiscal systems, such as reducing high import and corporate taxes, controlling government consumption, participation in bilateral investment treaties, and the harmonization of such treaties to avoid double taxation;
- (6) foreign investment issues, such as the provision of national treatment for foreign investors and other measures to create an environment conducive to domestic and foreign investment;
- (7) supporting the growth of regional markets within a free trade area framework;
- (8) governance issues, such as eliminating government corruption, minimizing government intervention in the market such as price controls and subsidies, and streamlining the business license process;
- (9) supporting the growth of the private sector, in particular by promoting the emergence of a new generation of African entrepreneurs;
- (10) encouraging the private ownership of government-controlled economic enterprises through divestiture programs;
- (11) removing restrictions on investment; and
- (12) observing the rule of law, including equal protection under the law and the right to due process and a fair trial.

(b) ADDITIONAL FACTORS.—In determining whether a sub-Saharan African country is eligible under subsection (a), the President shall take into account the following factors:

- (1) An expression by such country of its desire to be an eligible country under subsection (a).
- (2) The extent to which such country has made substantial progress toward—
 - (A) reducing tariff levels;
 - (B) binding its tariffs in the World Trade Organization and assuming meaningful binding obligations in other sectors of trade; and
 - (C) eliminating nontariff barriers to trade.
- (3) Whether such country, if not already a member of the World Trade Organization, is actively pursuing membership in that Organization.
- (4) Where applicable, the extent to which such country is in material compliance with its obligations to the International Monetary Fund and other international financial institutions.
- (5) The extent to which such country has a recognizable commitment to reducing poverty, providing basic health and education for poor citizens, the expansion of physical infrastructure in a manner designed to maximize accessibility, increased access to market and credit facilities for small farmers and producers, and improved economic opportunities for women as entrepreneurs and employees.

(6) Whether or not such country engages in activities that undermine United States national security or foreign policy interests.

(c) CONTINUING COMPLIANCE.—

(1) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor and review the progress of sub-Saharan African countries in order to determine their current or potential eligibility under subsection (a). Such determinations shall be based on quantitative factors to the fullest extent possible and shall be included in the annual report required by section 15.

(2) INELIGIBILITY OF CERTAIN COUNTRIES.—A sub-Saharan African country described in paragraph (1) that has not made continual progress in meeting the requirements with which it is not in compliance shall be ineligible to participate in programs, projects, or activities, or receive assistance or other benefits, under this Act.

(d) VIOLATIONS OF HUMAN RIGHTS AND INELIGIBLE COUNTRIES.—It is the sense of the Congress that a sub-Saharan African country should not be eligible to participate in programs, projects, or activities, or receive assistance or other benefits under this Act if the government of that country is determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights.

SEC. 5. ADDITIONAL AUTHORITIES AND INCREASED FLEXIBILITY TO PROVIDE ASSISTANCE UNDER THE DEVELOPMENT FUND FOR AFRICA.

(a) USE OF SUSTAINABLE DEVELOPMENT ASSISTANCE TO SUPPORT FURTHER ECONOMIC GROWTH.—It is the sense of the Congress that sustained economic growth in sub-Saharan Africa depends in large measure upon the development of a receptive environment for trade and investment, and that to achieve this objective the United States Agency for International Development should continue to support programs which help to create this environment. Investments in human resources, development, and implementation of free market policies, including policies to liberalize agricultural markets and improve food security, and the support for the rule of law and democratic governance should continue to be encouraged and enhanced on a bilateral and regional basis.

(b) DECLARATIONS OF POLICY.—The Congress makes the following declarations:

(1) The Development Fund for Africa established under chapter 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2293 et seq.) has been an effective tool in providing development assistance to sub-Saharan Africa since 1988.

(2) The Development Fund for Africa will complement the other provisions of this Act and lay a foundation for increased trade and investment opportunities between the United States and sub-Saharan Africa.

(3) Assistance provided through the Development Fund for Africa will continue to support programs and activities that promote the long term economic development of sub-Saharan Africa, such as programs and activities relating to the following:

(A) Strengthening primary and vocational education systems, especially the acquisition of middle-level technical skills for operating modern private businesses and the introduction of college level business education, including the study of international business, finance, and stock exchanges.

(B) Strengthening health care systems.

(C) Strengthening family planning service delivery systems.

(D) Supporting democratization, good governance and civil society and conflict resolution efforts.

(E) Increasing food security by promoting the expansion of agricultural and agriculture-based industrial production and productivity and increasing real incomes for poor individuals.

(F) Promoting an enabling environment for private sector-led growth through sustained economic reform, privatization programs, and market-led economic activities.

(G) Promoting decentralization and local participation in the development process, especially linking the rural production sectors and the industrial and market centers throughout Africa.

(H) Increasing the technical and managerial capacity of sub-Saharan African individuals to manage the economy of sub-Saharan Africa.

(I) Ensuring sustainable economic growth through environmental protection.

(4) The African Development Foundation has a unique congressional mandate to empower the poor to participate fully in development and to increase opportunities for gainful employment, poverty alleviation, and more equitable income distribution in sub-Saharan Africa. The African Development Foundation has

worked successfully to enhance the role of women as agents of change, strengthen the informal sector with an emphasis on supporting micro and small sized enterprises, indigenous technologies, and mobilizing local financing. The African Development Foundation should develop and implement strategies for promoting participation in the socioeconomic development process of grassroots and informal sector groups such as nongovernmental organizations, cooperatives, artisans, and traders into the programs and initiatives established under this Act.

(c) ADDITIONAL AUTHORITIES.—

(1) IN GENERAL.—Section 496(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2293(h)) is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

“(3) DEMOCRATIZATION AND CONFLICT RESOLUTION CAPABILITIES.—Assistance under this section may also include program assistance—

“(A) to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and

“(B) to strengthen conflict resolution capabilities of governmental, inter-governmental, and nongovernmental entities in sub-Saharan Africa.”.

(2) CONFORMING AMENDMENT.—Section 496(h)(4) of such Act, as amended by paragraph (1), is further amended by striking “paragraphs (1) and (2)” in the first sentence and inserting “paragraphs (1), (2), and (3)”.

(d) WAIVER AUTHORITY.—Section 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2293) is amended by adding at the end the following:

“(p) WAIVER AUTHORITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the President may waive any provision of law that earmarks, for a specified country, organization, or purpose, funds made available to carry out this chapter if the President determines, subject to the notification procedures under section 634A, that the waiver of such provision of law would provide improved conditions for the people of Africa. The President shall notify the appropriate congressional committees, in accordance with the procedures applicable to reprogramming notifications under section 634A of this Act, at least 15 days before any determination under this paragraph takes effect.

“(2) EXCEPTIONS.—

“(A) CHILD SURVIVAL ACTIVITIES.—The authority contained in paragraph (1) may not be used to waive a provision of law that earmarks funds made available to carry out this chapter for the following purposes:

“(i) Immunization programs.

“(ii) Oral rehydration programs.

“(iii) Health and nutrition programs, and related education programs, which address the needs of mothers and children.

“(iv) Water and sanitation programs.

“(v) Assistance for displaced and orphaned children.

“(vi) Programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria, and other diseases.

“(vii) Basic education programs for children.

“(viii) Contribution on a grant basis to the United Nations Children’s Fund (UNICEF) pursuant to section 301 of this Act.

“(B) REQUIREMENT TO SUPERSEDE WAIVER AUTHORITY.—The provisions of this subsection shall not be superseded except by a provision of law enacted after the date of the enactment of the African Growth and Opportunity Act which specifically repeals, modifies, or supersedes such provisions.”.

SEC. 6. UNITED STATES-SUB-SAHARAN AFRICA TRADE AND ECONOMIC COOPERATION FORUM.

(a) DECLARATION OF POLICY.—The President shall convene annual high-level meetings between appropriate officials of the United States Government and officials of the governments of sub-Saharan African countries in order to foster close economic ties between the United States and sub-Saharan Africa.

(b) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this Act, the President, after consulting with the governments concerned, shall establish a United States–Sub-Saharan Africa Trade and Economic Cooperation Forum (hereafter in this section referred to as the “Forum”).

(c) REQUIREMENTS.—In creating the Forum, the President shall meet the following requirements:

(1) The President shall direct the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative

to host the first annual meeting with the counterparts of such Secretaries from the governments of sub-Saharan African countries eligible under section 4, the Secretary General of the Organization of African Unity, and government officials from other appropriate countries in Africa, to discuss expanding trade and investment relations between the United States and sub-Saharan Africa and the implementation of this Act.

(2)(A) The President, in consultation with the Congress, shall encourage United States nongovernmental organizations to host annual meetings with nongovernmental organizations from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(B) The President, in consultation with the Congress, shall encourage United States representatives of the private sector to host annual meetings with representatives of the private sector from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(3) The President shall, to the extent practicable, meet with the heads of governments of sub-Saharan African countries eligible under section 4 not less than once every two years for the purpose of discussing the issues described in paragraph (1). The first such meeting should take place not later than twelve months after the date of the enactment of this Act.

(d) DISSEMINATION OF INFORMATION BY USIA.—In order to assist in carrying out the purposes of the Forum, the United States Information Agency shall disseminate regularly, through multiple media, economic information in support of the free market economic reforms described in this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 7. UNITED STATES-SUB-SAHARAN AFRICA FREE TRADE AREA.

(a) DECLARATION OF POLICY.—The Congress declares that a United States-Sub-Saharan Africa Free Trade Area should be established, or free trade agreements should be entered into, in order to serve as the catalyst for increasing trade between the United States and sub-Saharan Africa and increasing private sector development in sub-Saharan Africa.

(b) PLAN REQUIREMENT.—

(1) IN GENERAL.—The President, taking into account the provisions of the treaty establishing the African Economic Community and the willingness of the governments of Sub-Saharan African countries to engage in negotiations to enter into free trade agreements, shall develop a plan for the purpose of entering into one or more trade agreements with sub-Saharan African countries eligible under section 4 in order to establish a United States-Sub-Saharan Africa Free Trade Area (hereafter in this section referred to as the “Free Trade Area”).

(2) ELEMENTS OF PLAN.—The plan shall include the following:

(A) The specific objectives of the United States with respect to the establishment of the Free Trade Area and a suggested timetable for achieving those objectives.

(B) The benefits to both the United States and sub-Saharan Africa with respect to the Free Trade Area.

(C) A mutually agreed-upon timetable for establishing the Free Trade Area.

(D) The implications for and the role of regional and sub-regional organizations in sub-Saharan Africa with respect to the Free Trade Area.

(E) Subject matter anticipated to be covered by the agreement for establishing the Free Trade Area and United States laws, programs, and policies, as well as the laws of participating eligible African countries and existing bilateral and multilateral and economic cooperation and trade agreements, that may be affected by the agreement or agreements.

(F) Procedures to ensure the following:

(i) Adequate consultation with the Congress and the private sector during the negotiation of the agreement or agreements for establishing the Free Trade Area.

(ii) Consultation with the Congress regarding all matters relating to implementation of the agreement or agreements.

(iii) Approval by the Congress of the agreement or agreements.

(iv) Adequate consultations with the relevant African governments and African regional and subregional intergovernmental organizations during the negotiations of the agreement or agreements.

(c) **REPORTING REQUIREMENT.**—Not later than 12 months after the date of the enactment of this Act, the President shall prepare and transmit to the Congress a report containing the plan developed pursuant to subsection (b).

SEC. 8. ELIMINATING TRADE BARRIERS AND ENCOURAGING EXPORTS.

(a) **FINDINGS.**—The Congress makes the following findings:

(1) The lack of competitiveness of sub-Saharan Africa in the global market, especially in the manufacturing sector, make it a limited threat to market disruption and no threat to United States jobs.

(2) Annual textile and apparel exports to the United States from sub-Saharan Africa represent less than 1 percent of all textile and apparel exports to the United States, which totaled \$45,932,000,000 in 1996.

(3) Sub-Saharan Africa has limited textile manufacturing capacity. During 1998 and the succeeding 4 years, this limited capacity to manufacture textiles and apparel is projected to grow at a modest rate. Given this limited capacity to export textiles and apparel, it will be very difficult for these exports from sub-Saharan Africa, during 1998 and the succeeding 9 years, to exceed 3 percent annually of total imports of textile and apparel to the United States. If these exports from sub-Saharan Africa remain around 3 percent of total imports, they will not represent a threat to United States workers, consumers, or manufacturers.

(b) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that—

(1) it would be to the mutual benefit of the countries in sub-Saharan Africa and the United States to ensure that the commitments of the World Trade Organization and associated agreements are faithfully implemented in each of the member countries, so as to lay the groundwork for sustained growth in textile and apparel exports and trade under agreed rules and disciplines;

(2) reform of trade policies in sub-Saharan Africa with the objective of removing structural impediments to trade, consistent with obligations under the World Trade Organization, can assist the countries of the region in achieving greater and greater diversification of textile and apparel export commodities and products and export markets; and

(3) the President should support textile and apparel trade reform in sub-Saharan Africa by, among other measures, providing technical assistance, sharing of information to expand basic knowledge of how to trade with the United States, and encouraging business-to-business contacts with the region.

(c) **TREATMENT OF QUOTAS.**—

(1) **KENYA AND MAURITIUS.**—Pursuant to the Agreement on Textiles and Clothing, the United States shall eliminate the existing quotas on textile and apparel exports to the United States—

(A) from Kenya within 30 days after that country adopts a cost-effective and efficient visa system to guard against unlawful transshipment of textile and apparel goods; and

(B) from Mauritius within 30 days after that country adopts such a visa system.

The Customs Service shall provide the necessary assistance to Kenya and Mauritius in the development and implementation of those visa systems. The Customs Service shall monitor and the Commissioner of Customs shall submit to the Congress, not later than March 31 of each year, a report on the effectiveness of those visa systems during the preceding calendar year.

(2) **OTHER SUB-SAHARAN COUNTRIES.**—The President shall continue the existing no quota policy for countries in sub-Saharan Africa. The President shall submit to the Congress, not later than March 31 of each year, a report on the growth in textiles and apparel exports to the United States from countries in sub-Saharan Africa in order to protect United States consumers, workers, and textile manufacturers from economic injury on account of the no quota policy. The President should ensure that any country in sub-Saharan Africa that intends to export substantial textile and apparel goods to the United States has in place a functioning and efficient visa system to guard against unlawful transshipment of textile and apparel goods.

(d) **DEFINITION.**—For purposes of this section, the term “Agreement on Textiles and Clothing” means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

SEC. 9. GENERALIZED SYSTEM OF PREFERENCES.

(a) **PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.**—Section 503(a)(1) of the Trade Act of 1974 (19 U.S.C. 2463(a)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—The President may provide duty-free treatment for any article set forth in paragraph (1) of subsection (b) that is the growth, product, or manufacture of an eligible country in sub-Saharan Africa that is a beneficiary developing country, if, after receiving the advice of the International Trade Commission in accordance with subsection (e), the President determines that such article is not import-sensitive in the context of imports from eligible countries in sub-Saharan Africa. This subparagraph shall not affect the designation of eligible articles under subparagraph (B).”.

(b) RULES OF ORIGIN.—Section 503(a)(2) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)) is amended by adding at the end the following:

“(C) ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—For purposes of determining the percentage referred to in subparagraph (A) in the case of an article of an eligible country in sub-Saharan Africa that is a beneficiary developing country—

“(i) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A); and

“(ii) the cost or value of the materials included with respect to that article that are produced in any beneficiary developing country that is an eligible country in sub-Saharan Africa shall be applied in determining such percentage.”.

(c) WAIVER OF COMPETITIVE NEED LIMITATION.—Section 503(c)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2463(c)(2)(D)) is amended to read as follows:

“(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any eligible country in sub-Saharan Africa.”.

(d) EXTENSION OF PROGRAM.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

“SEC. 505. DATE OF TERMINATION.

“(a) COUNTRIES IN SUB-SAHARAN AFRICA.—No duty-free treatment provided under this title shall remain in effect after May 31, 2007, with respect to beneficiary developing countries that are eligible countries in sub-Saharan Africa.

“(b) OTHER COUNTRIES.—No duty-free treatment provided under this title shall remain in effect after May 31, 1997, with respect to beneficiary developing countries other than those provided for in subsection (a).”.

(e) DEFINITION.—Section 507 of the Trade Act of 1974 (19 U.S.C. 2467) is amended by adding at the end the following:

“(6) ELIGIBLE COUNTRY IN SUB-SAHARAN AFRICA.—The terms ‘eligible country in sub-Saharan Africa’ and ‘eligible countries in sub-Saharan Africa’ means a country or countries that the President has determined to be eligible under section 4 of the African Growth and Opportunity Act.”.

SEC. 10. INTERNATIONAL FINANCIAL INSTITUTIONS AND DEBT REDUCTION.

(a) BETTER MECHANISMS TO FURTHER GOALS FOR SUB-SAHARAN AFRICA.—It is the sense of the Congress that the Secretary of the Treasury should instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Monetary Fund, and the African Development Bank to use the voice and votes of the Executive Directors to encourage vigorously their respective institutions to develop enhanced mechanisms which further the following goals in eligible countries in sub-Saharan Africa:

(1) Strengthening and expanding the private sector, especially among women-owned businesses.

(2) Reducing tariffs, nontariff barriers, and other trade obstacles, and increasing economic integration.

(3) Supporting countries committed to accountable government, economic reform, the eradication of poverty, and the building of civil societies.

(4) Supporting deep debt reduction at the earliest possible date with the greatest amount of relief for eligible poorest countries under the “Heavily Indebted Poor Countries” (HIPC) debt initiative.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that relief provided to countries in sub-Saharan Africa which qualify for the Heavily Indebted Poor Countries debt initiative should primarily be made through grants rather than through

extended-term debt, and that interim relief or interim financing should be provided for eligible countries that establish a strong record of macroeconomic reform.

(c) EXECUTIVE BRANCH INITIATIVES.—The Congress supports and encourages the implementation of the following initiatives of the executive branch:

(1) AMERICAN-AFRICAN BUSINESS PARTNERSHIP.—The Agency for International Development devoting up to \$1,000,000 annually to help catalyze relationships between United States firms and firms in sub-Saharan Africa through a variety of business associations and networks.

(2) TECHNICAL ASSISTANCE TO PROMOTE REFORMS.—The Agency for International Development providing up to \$5,000,000 annually in short-term technical assistance programs to help the governments of sub-Saharan African countries to—

(A) liberalize trade and promote exports;

(B) bring their legal regimes into compliance with the standards of the World Trade Organization in conjunction with membership in that Organization; and

(C) make financial and fiscal reforms, as well as the United States Department of Agriculture providing support to promote greater agribusiness linkages.

(3) AGRICULTURAL MARKET LIBERALIZATION.—The Agency for International Development devoting up to \$15,000,000 annually as part of the multi-year Africa Food Security Initiative to help address such critical agricultural policy issues as market liberalization, agricultural export development, and agribusiness investment in processing and transporting agricultural commodities.

(4) TRADE PROMOTION.—The Trade Development Agency increasing the number of reverse trade missions to growth-oriented countries in sub-Saharan Africa.

(5) TRADE IN SERVICES.—Efforts by United States embassies in the countries in sub-Saharan Africa to encourage their host governments—

(A) to participate in the ongoing negotiations on financial services in the World Trade Organization;

(B) to revise their existing schedules to the General Agreement on Trade in Services of the World Trade Organization in light of the successful conclusion of negotiations on basic telecommunications services; and

(C) to make further commitments in their schedules to the General Agreement on Trade in Services in order to encourage the removal of tariff and nontariff barriers and to foster competition in the services sector in those countries.

SEC. 11. SUB-SAHARAN AFRICA EQUITY AND INFRASTRUCTURE FUNDS.

(a) INITIATION OF FUNDS.—It is the sense of the Congress that the Overseas Private Investment Corporation should, within 12 months after the date of the enactment of this Act, exercise the authorities it has to initiate 2 or more equity funds in support of projects in the countries in sub-Saharan Africa.

(b) STRUCTURE AND TYPES OF FUNDS.—

(1) STRUCTURE.—Each fund initiated under subsection (a) should be structured as a partnership managed by professional private sector fund managers and monitored on a continuing basis by the Corporation.

(2) CAPITALIZATION.—Each fund should be capitalized with a combination of private equity capital, which is not guaranteed by the Corporation, and debt for which the Corporation provides guaranties.

(3) TYPES OF FUNDS.—

(A) EQUITY FUND FOR SUB-SAHARAN AFRICA.—One of the funds should be an equity fund, with assets of up to \$150,000,000, the primary purpose of which is to achieve long-term capital appreciation through equity investments in support of projects in countries in sub-Saharan Africa.

(B) INFRASTRUCTURE FUND.—One or more of the funds, with combined assets of up to \$500,000,000, should be used in support of infrastructure projects in countries of sub-Saharan Africa. The primary purpose of any such fund would be to achieve long-term capital appreciation through investing in financing for infrastructure projects in sub-Saharan Africa, including for the expansion of businesses in sub-Saharan Africa, restructurings, management buyouts and buyins, businesses with local ownership, and privatizations.

(4) EMPHASIS.—The Corporation shall ensure that the funds are used to provide support in particular to women entrepreneurs and to innovative investments that expand opportunities for women and maximize employment opportunities for poor individuals.

SEC. 12. OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK INITIATIVES.

(a) OVERSEAS PRIVATE INVESTMENT CORPORATION.—

(1) ADVISORY COMMITTEE.—Section 233 of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

“(e) ADVISORY COMMITTEE.—The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the establishment and use of an advisory committee to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the advisory committee shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The advisory committee shall terminate 4 years after the date of the enactment of this subsection.”.

(2) REPORTS TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Overseas Private Investment Corporation shall submit to the Congress a report on the steps that the Board has taken to implement section 233(e) of the Foreign Assistance Act of 1961 and any recommendations of the advisory board established pursuant to such section.

(b) EXPORT-IMPORT BANK.—

(1) ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.—Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting after paragraph (8) the following:

“(9)(A) The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank’s financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

“(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

“(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

“(iii) The advisory committee shall terminate 4 years after the date of the enactment of this subparagraph.”.

(2) REPORTS TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Export-Import Bank of the United States shall submit to the Congress a report on the steps that the Board has taken to implement section 2(b)(9)(B) of the Export-Import Bank Act of 1945 and any recommendations of the advisory committee established pursuant to such section.

SEC. 13. ESTABLISHMENT OF ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SUB-SAHARAN AFRICA.

(a) ESTABLISHMENT.—The President shall establish a position of Assistant United States Trade Representative within the Office of the United States Trade Representative to focus on trade issues relating to sub-Saharan Africa.

(b) FUNDING AND STAFF.—The President shall ensure that the Assistant United States Trade Representative appointed pursuant to paragraph (1) has adequate funding and staff to carry out the duties described in paragraph (1).

SEC. 14. EXPANSION OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE IN SUB-SAHARAN AFRICA.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the United States and Foreign Commercial Service should expand its presence in sub-Saharan Africa by increasing the number of posts and the number of personnel it allocates to sub-Saharan Africa.

(b) REPORTING REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State, should report to the Congress on the feasibility of expanding the presence in sub-Saharan Africa of the United States and Foreign Commercial Service.

SEC. 15. REPORTING REQUIREMENT.

The President shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, and not later than the end of each of the next 4 1-year periods thereafter, a report on the implementation of this Act.

SEC. 16. SUB-SAHARAN AFRICA DEFINED.

For purposes of this Act, the terms “sub-Saharan Africa”, “sub-Saharan African country”, “country in sub-Saharan Africa”, and “countries in sub-Saharan Africa” refer to the following:

- Republic of Angola (Angola)
- Republic of Botswana (Botswana)
- Republic of Burundi (Burundi)
- Republic of Cape Verde (Cape Verde)
- Republic of Chad (Chad)
- Democratic Republic of Congo
- Republic of the Congo (Congo)
- Republic of Djibouti (Djibouti)
- State of Eritrea (Eritrea)
- Gabonese Republic (Gabon)
- Republic of Ghana (Ghana)
- Republic of Guinea-Bissau (Guinea-Bissau)
- Kingdom of Lesotho (Lesotho)
- Republic of Madagascar (Madagascar)
- Republic of Mali (Mali)
- Republic of Mauritius (Mauritius)
- Republic of Namibia (Namibia)
- Federal Republic of Nigeria (Nigeria)
- Democratic Republic of Sao Tomé and Príncipe (Sao Tomé and Príncipe)
- Republic of Sierra Leone (Sierra Leone)
- Somalia
- Kingdom of Swaziland (Swaziland)
- Republic of Togo (Togo)
- Republic of Zimbabwe (Zimbabwe)
- Republic of Benin (Benin)
- Burkina Faso (Burkina)
- Republic of Cameroon (Cameroon)
- Central African Republic
- Federal Islamic Republic of the Comoros (Comoros)
- Republic of Côte d'Ivoire (Côte d'Ivoire)
- Republic of Equatorial Guinea (Equatorial Guinea)
- Ethiopia
- Republic of the Gambia (Gambia)
- Republic of Guinea (Guinea)
- Republic of Kenya (Kenya)
- Republic of Liberia (Liberia)
- Republic of Malawi (Malawi)
- Islamic Republic of Mauritania (Mauritania)
- Republic of Mozambique (Mozambique)
- Republic of Niger (Niger)
- Republic of Rwanda (Rwanda)
- Republic of Senegal (Senegal)
- Republic of Seychelles (Seychelles)
- Republic of South Africa (South Africa)
- Republic of Sudan (Sudan)
- United Republic of Tanzania (Tanzania)
- Republic of Uganda (Uganda)
- Republic of Zambia (Zambia)

BACKGROUND AND PURPOSE

H.R. 1432, the African Growth and Opportunity Act (AGOA), is the product of years of bipartisan congressional efforts to promote increased trade and investment between the United States and sub-Saharan Africa. The bill authorizes a new trade and investment policy toward the countries of sub-Saharan Africa and expresses the willingness of the U.S. to assist the eligible countries of the region with the reduction of trade barriers, the creation of an Economic Cooperation Forum, the promotion of a free trade area and a variety of other trade and aid related mechanisms.

The bill has very broad support in the Congress and in the International Relations Committee. Recently, the Administration has also become supportive of the legislation.

AGOA would set up a series of mechanisms by which the President would determine the eligibility of a specific sub-Saharan African nation to participate in the programs and benefits listed in the bill. The President shall determine eligibility based on adherence to human rights norms and demonstrated commitment to economic policy reform, as specified in Section 4.

The President shall take into account additional factors when considering AGOA eligibility including an expression of its commitment to be an eligible country and the extent to which the country has made substantial progress in the reduction of tariff levels, the binding of its tariff levels in the World Trade Organization, and eliminating non-tariff barriers to trade. These additional factors are also elaborated on in Section 4.

With the end of the Cold War and the demise of apartheid in South Africa, sub-Saharan Africa has opened up to the world as never before. Numerous countries are moving toward democracy, liberalizing their economies and seeking a better standard of living for their people. The United States has played a role in these changes with development assistance and other means. With AGOA, the Congress directs the Overseas Private Investment Corporation and the Export-Import Bank to establish special advisory committees that would help expand exports to and investment in the countries of the region.

Africa is a continent of 48 nations and over 500 million people. It supplies many important natural resources to the United States, from petroleum to uranium to timber. Trade between the U.S. and Africa is greater than that between the U.S. and the former Soviet Union and Eastern Europe combined. Yet, there exists great possibilities for this trade to be expanded.

Many African nations are only now starting to make the economic reforms necessary for them to become part of the world economy. Barriers to foreign investment are coming down and investor-friendly laws are being written. Two-thirds of African nations have adopted significant macro-economic policy reforms.

In 1996, thirty-one African nations experienced growth in real per capita income. Senegal, Ghana, Ethiopia and Cote d'Ivoire are among the fastest growing economies in the world. The United States is the largest recipient (at 18%) of Africa's exports, but is only the fifth largest exporter to Africa.

The new economic realities of Africa must be reflected in a new U.S. government approach to the continent. Currently, the imperatives of development assistance and humanitarian relief drive U.S. policies toward African nations. While these should continue to remain priorities, the considerable talent of the U.S. foreign policy apparatus should also be directed towards the promotion of stronger trade and investment ties between Americans and Africans.

This is the purpose of AGOA.

COMMITTEE ACTION

H.R. 1432, "The African Growth and Opportunity Act" was introduced by Representative Crane on April 24, 1997 and was referred

to the Committee on International Relations and in addition to the Committee on Ways and Means and Banking and Financial Services for a period to be subsequently determined by the Speaker.

On May 8, the bill was referred to the Subcommittee on Africa and on May 22 that subcommittee held a mark-up of H.R. 1432. By voice vote, the subcommittee adopted an amendment in the nature of a substitute offered by Subcommittee Chairman Edward Royce of California that provided for enhanced transparency and monitoring in the process of deciding which countries will participate in the benefits of the Act. It also asked the United States Information Agency to assist in the establishment of the United States-Sub-Saharan Africa Trade and Economic Cooperation Forum by disseminating information regarding the free market economic reforms contained in the Act.

The Subcommittee also adopted an amendment by voice vote offered by the ranking Democratic member, Mr. Menendez from New Jersey expressing the sense of Congress that the Foreign Commercial Service of the Department of Commerce should expand its presence in sub-Saharan Africa by increasing the number of posts and the number of personnel it allocates to that region. It also contains a reporting requirement from the Secretary of Commerce on the feasibility of increasing the presence of the Foreign Commercial Service in Africa.

By voice vote, the Subcommittee adopted an amendment offered by Mr. Payne from New Jersey that requires the President to take into account whether any sub-Saharan country is engaging in activities that undermine U.S. national security or foreign policy interests. Also adopted by voice vote was an amendment offered by Mr. Campbell from California that struck "Zaire" from the list of defined countries and substituted in its place the "Democratic Republic of Congo". A motion to report the bill, as amended, to the Full Committee passed by voice vote.

On June 25, the Full Committee marked up the bill in open session, pursuant to notice.

The Committee first considered an amendment in the nature of a substitute, offered by Mr. Gilman and recommended by the Subcommittee on Africa, by unanimous consent, as original text for the purpose of amendment.

An en bloc amendment to the amendment in the nature of a substitute was offered, and adopted by voice vote, by the Chairman of the Committee, Mr. Benjamin Gilman from New York, that includes: (1) A sense of Congress provision barring a country's eligibility from the benefits under the Act to the extent it engages in a consistent pattern of human rights violations; (2) a series of clarifying and conforming changes throughout the bill; (3) a provision requiring the Overseas Private Investment Corporation, OPIC, to establish an advisory committee to assist the OPIC Board in developing and implementing policies with respect to sub-Saharan Africa; and (4) a series of provisions requested by the Chairman of the Committee on Banking and Financial Services, Mr. Jim Leach from Iowa.

These banking-related provisions express the sense of Congress that the Secretary of the Treasury should instruct the U.S. Executive Directors at the International Bank for Reconstruction and De-

velopment, the International Monetary Fund and the African Development Bank to use their voice and vote in these institutions to support policy goals that expand the private sector; reduce tariff and non-tariff barriers; support countries committed to accountable government, economic reform, eradication of poverty and the building of civil societies; and encourage the adoption of deep debt reduction under the “Heavily Indebted Poor Countries” (HIPC) debt initiative. These provisions also direct the Export-Import Bank to establish an advisory Committee for sub-Saharan Africa.

Mr. Smith from New Jersey offered an amendment to the amendment in the nature of a substitute which included a human rights provision in the eligibility requirements section of the Act. It provides for the eligibility of a sub-Saharan country if the President determines that it does not engage in gross violations of internationally recognized human rights. The amendment passed by voice vote.

Mr. Payne from New Jersey offered an amendment that conditioned the exercise of the waiver authority in Section 5 of the bill relating to the Development Fund for Africa. The amendment specified that the President would have to notify the appropriate congressional committees pursuant to the reprogramming notifications of section 634A of the Foreign Assistance Act that the waiver of any earmark would provide improved conditions for the people of Africa. The amendment passed by voice vote.

The Committee adopted the amendment in the nature of a substitute, as amended, by voice vote.

A quorum being present, the Full Committee by voice vote ordered the bill reported to the House with the recommendation that the bill, as amended, do pass.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. No recorded votes developed during the consideration of this legislation.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

The Committee adopts the cost estimate of the Congressional Budget Office, set out below, as its submission of any required in-

formation on new budget authority, new spending authority, new credit authority, or an increase or decrease in the national debt required by clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

Section 12(a) of H.R. 1432 as reported provides for the establishment of an “advisory committee” to the Board of the Overseas Private Investment Corporation to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa, and to make recommendation to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The advisory committee would terminate 4 years after the date of enactment. Section 12(b) provides for the establishment of an advisory Committee to the Board of Directors of the Export-Import Bank to assist the Board for similar purposes as the advisory committee established under section 12(a). The advisory committee thus established would also terminate after 4 years. In the view of the Committee, the work of these panels are not and could not be accomplished by one or more other agencies or by an advisory committee or committees already in existence, or by enlarging the mandate of an existing advisory committee or committees.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.R. 1432 as reported by the Committee: Article I, section 8, clause 3 (relating to the regulation of commerce with foreign nations and among the several states); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth with respect to H.R. 1432 as reported by the Committee the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 9, 1997.

Hon. BENJAMIN A. GILMAN,
*Chairman, Committee on International Relations,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1432, the African Growth and Opportunity Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephanie Weiner.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 1432—The African Growth and Opportunity Act

Summary: H.R. 1432 would authorize a new trade and investment policy for sub-Saharan Africa. CBO estimates that enacting the trade preferences in the bill would reduce governmental receipts by about \$46 million in 1998 and \$234 million over the 1998–2002 period, net of income and payroll tax offsets. Because enacting H.R. 1432 would affect receipts in 1998, pay-as-you-go procedures would apply to the bill. In addition, subject to appropriation of the necessary funds, CBO estimates that implementing H.R. 1432 would result in additional discretionary spending of \$3 million over the 1998–2002 period.

H.R. 1432 contains no new private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), and would not impose any costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1432 is shown in the following table.

		By fiscal year, in millions of dollars—					
		1997	1998	1999	2000	2001	2002
REVENUES							
Proposed Changes		0	–46	–44	–46	–48	–50
SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level		0	1	(¹)	(¹)	(¹)	(¹)
Estimated Outlays		0	1	(¹)	(¹)	(¹)	(¹)

¹ Less than \$500,000.

Note.—The outlay effects of this legislation fall within budget function 800 (general government).

Revenues

The Generalized System of Preferences (GSP) affords nonreciprocal tariff preferences to approximately 145 developing countries to aid their economic development and to diversify and expand their production and exports. The United States GSP expired on May 31, 1997. H.R. 1432 would renew GSP for eligible sub-Saharan African countries, retroactive to May 31, 1997, and extend the program through May 31, 2007. The bill also would amend the program to lessen the rule of origin and competitive need limitation requirements for products from the region. CBO estimates that the

renewal of GSP for those countries would reduce governmental receipts by about \$194 million over the 1998–2002 period. CBO assumes that this provision would be effective October 1, 1997.

This provision was estimated independently of the proposal in the House-passed version of H.R. 2014 that would reinstate GSP to all beneficiary countries, through May 31, 1999. Should that proposal be enacted first, the renewal of GSP for sub-Saharan African countries in H.R. 1432 would be effective from May 31, 1999, through May 31, 2007, and would reduce receipts by \$125 million over the 1998–2002 period.

In addition, the bill would authorize the President to grant duty-free GSP treatment for products currently excluded from GSP that the International Trade Commission (ITC) determines are not import-sensitive in the context of imports from sub-Saharan Africa. CBO estimates that this provision would reduce governmental receipts by about \$40 million over the 1998–2002 period. This estimate assumes that some products (including most textile and apparel goods) that have been considered import-sensitive by ITC in the past would remain ineligible for GSP under the bill. CBO assumes that the expansion of products from sub-Saharan Africa eligible for GSP would be effective October 1, 1998. H.R. 1432 also would eliminate the existing textile quotas on imports from Kenya and Mauritius, if these countries adopt an effective visa system to guard against transshipments. CBO estimates that this provision would have a negligible effect on receipts.

The ITC is currently conducting a study, expected to be released in September 1997, to determine the impact of extending quota-free and duty-free treatment to textile and apparel imports from sub-Saharan Africa. This estimate is subject to change pending ITC's findings.

Spending subject to appropriations

Section 6 would establish a forum consisting of high-level officials of the United States government and the governments of sub-Saharan African countries. The forum would meet annually to foster trade and economic ties, and the first meeting would be hosted by the United States. Based on experience with the Asia-Pacific Economic Cooperation and information from the Office of the United States Trade Representative, CBO estimates that the costs could run as high as \$1 million for the initial meeting during fiscal year 1998 and less than \$500,000 annually for subsequent meetings.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that H.R. 1432 would reduce receipts by \$46 million in 1998.

Intergovernmental and private-sector impact: The bill contains no new private-sector or intergovernmental mandates as defined in UMRA, and would not impose any costs on state, local, or tribal governments.

Estimate prepared by: Federal Cost: Stephanie Weiner. Impact on State, Local, and Tribal Governments: Pepper Santalucia. Impact on the Private Sector: Lesley Frymier.

Estimate approved by: Rosemary Marcuss, Assistant Director for Tax Analysis.

JURISDICTIONAL ISSUES AND OTHER MATTERS

The following material is included for the interest of Members:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, October 28, 1997.

Hon. NEWT GINGRICH,
Speaker,
The Capitol.

DEAR MR. SPEAKER: I am writing concerning H.R. 1432, the "Africa Growth and Opportunity Act," which the House of Representatives may consider later this year. The legislation contains two provisions falling within the jurisdiction of the Committee on Banking and Financial Services under Rule X of the Rules of the House of Representatives. These provisions are found in Sections 10 and 12.

The Banking Committee strongly applauds this bipartisan initiative to enhance U.S. economic engagement with sub-Saharan Africa. This is a timely and important effort to help integrate the reform-minded countries of sub-Saharan Africa into the world economy, emphasizing expanded U.S. trade and investment ties.

The Committee is pleased to report that during consideration of H.R. 1432 by the Committee on International Relations and the Committee on Ways and Means, the Banking Committee's language concerning the international financial institutions and the Heavily Indebted Poor Country debt initiative (HIPC), as well as the Committee's language creating an Advisory Committee on sub-Saharan Africa for the Export-Import Bank of the United States (Eximbank), was incorporated into the bill as amended. As a result, the Committee has no need to consider and mark up H.R. 1432.

By way of background, Section 10 of the bill contains language relating to the international financial institutions and the HIPC debt initiative. This provision falls under the jurisdiction of the Banking Committee related to international financial and monetary organizations. Section 12 would establish an Eximbank Advisory Committee on sub-Saharan Africa. This provision falls under the jurisdiction of the Banking Committee related to international finance. The Committee addressed these issues in H.R. 1488, the International Financial Institution Reform and Authorization Act of 1997, and in H.R. 1370, legislation to reauthorize the Export-Import Bank of the United States. In conclusion, the Banking Committee appreciates the cooperation extended to it by the Committee on International Relations and the Committee on Ways and Means. Because the Committee's legislative language has already been incorporated into the bill as amended, the Banking Committee declines to exercise its jurisdiction over H.R. 1432 and requests to be discharged of further consideration of Sections 10 and 12 without prejudice.

Sincerely,

JAMES A. LEACH, *Chairman.*

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This section states that this Act may be cited as the “African Growth and Opportunity Act”.

SECTION 2. FINDINGS

The Congress finds that it is in the mutual economic interest of the United States and sub-Saharan Africa to promote sustainable economic growth and development in sub-Saharan Africa. The U.S. seeks to assist these sub-Saharan African countries to achieve economic self-reliance by (1) strengthening the private sector, especially women-owned businesses; (2) encouraging increased trade and investment between the United States and sub-Saharan Africa; (3) reducing trade barriers; (4) expanding assistance to regional integration efforts; (5) negotiating free trade areas; (6) establishing a Trade and Investment Partnership and an Economic Cooperation Forum between the U.S. and sub-Saharan Africa; (7) focusing on those countries committed to accountable government, reform and the eradication of poverty; and (8) continuing to support development assistance for those countries attempting to build civil societies.

SECTION 3. STATEMENT OF POLICY

This section reiterates congressional support for economic self-reliance in sub-Saharan African nations, particularly those countries committed to economic and political reforms; market incentives and private sector growth; eradication of poverty and the importance of women to economic growth and development.

SECTION 4. ELIGIBILITY REQUIREMENTS

This section describes the mechanism by which sub-Saharan African nations become eligible for programs and benefits of AGOA. The President shall determine eligibility based on adherence to human rights norms and demonstrated commitment to economic policy reform. The President shall “take into account” other factors when making his determination.

Human Rights. As described in subsection (a), a country that the President determines does not engage in gross violations of internationally recognized human rights shall be eligible. Subsection (d) elaborates further the sense of Congress that a country should not be eligible if the government of that country is determined by the President to engage in a “consistent pattern” of gross violations of internationally recognized human rights.

Economic Reform. To be eligible under the AGOA, a country must also make continual progress toward establishing a market economy, as evidenced by the establishment and enforcement of policies: (1) Promoting free movement of goods between the U.S. and sub-Saharan Africa; (2) promoting the expansion of the production base and the transformation of commodities for exports through joint ventures between African and foreign investors; (3) protecting intellectual property rights and improving product testing, labeling and certification; (4) protecting property rights and

against expropriation; (5) reducing import and corporate taxes, controlling government consumption and participating in bilateral investment treaties; (6) providing national treatment for foreign investors and a policy environment conducive to domestic and foreign investment; (7) supporting the growth of regional markets; (8) supporting an end to corruption and government interference in the marketplace; (9) supporting a new generation of African entrepreneurs; (10) encouraging divestiture of government-controlled economic enterprises; (11) removing investment restrictions; and (12) observing the rule of law.

Additional Factors. The President shall take into account additional factors when considering AGOA eligibility including an expression of its commitment to be an eligible country and the extent to which the country has made substantial progress in the reduction of tariff levels, the binding of its tariff levels in the World Trade Organization, and eliminating non-tariff barriers to trade. In addition, the President should also take into account whether the country is already a member of the World Trading Organization or is pursuing membership in that body; the extent to which the country is in compliance with its obligations to the International Monetary Fund; the extent to which the country has a commitment to reducing poverty, providing basic education for its citizens, providing access to market and credit facilities for small farmers and improving economic opportunities for women as entrepreneurs; and the extent to which a country engages in activities that undermine the national security or the foreign policy interests of the United States.

Continuing Compliance. Subsection (c) requires the President to continually monitor sub-Saharan African nations' compliance with subsection (a) and include quantitative evaluations in the annual report required by section 15. Subsection (c) further states that nations not making continual progress toward the requirements listed in subsection (a) shall not be eligible under AGOA.

SECTION 5. ADDITIONAL AUTHORITIES AND INCREASED FLEXIBILITY TO PROVIDE ASSISTANCE UNDER THE DEVELOPMENT FUND FOR AFRICA

Subsections (a) and (b) make a number of statements of policy regarding the Development Fund for Africa and the African Development Foundation and their roles in promoting stronger economic links between the United States and sub-Saharan African nations. In particular, it is noted that sustainable development, as advanced by the U.S. Agency for International Development, is an essential component in any effort to promote trade and investment in Africa. The bill encourages USAID to continue to support programs that advance sustainable development, including investments in human resources, development and implementation of free market policies, including policies to liberalize agricultural markets and improve food security, and the support for the rule of law and democratic governance.

Other activities that enhance trade and investment possibilities include: strengthening primary and vocational education systems, strengthening health care systems, strengthening family planning service delivery systems, supporting democratization, good governance and civil society and conflict resolution efforts, increasing food

security, promoting an enabling environment for private sector-led growth, promoting decentralization and local participation in the development process, increasing technical and managerial capacity of Africans, and ensuring sustainable economic growth through environmental protection.

Subsection (c) amends the Foreign Assistance Act of 1961, as amended, to provide increased flexibility to the Agency for International Development in providing program assistance promoting democratization, good government and strong civil societies and strengthening conflict resolution capabilities of governmental, intergovernmental and non-governmental entities in sub-Saharan Africa.

Subsection (d) amends the Foreign Assistance Act of 1961 to provide additional authority to the President to waive provisions of law that earmark funds provided under the Development Fund for Africa, Chapter 10 of Part 1 of the Foreign Assistance Act, as amended if the President determines that the waiver of such law would provide improved conditions for the people of Africa. The waiver does not apply to provisions of law that earmark funds for child survival activities, as enumerated in the amendment.

SECTION 6. UNITED STATES-SUB-SAHARAN AFRICA TRADE AND ECONOMIC COOPERATION FORUM

This section directs the President to convene, on an annual basis, meetings of high-level officials between the government of the United States and those nations in sub-Saharan Africa that meet the requirements of AGOA. The first of these meetings (the Forum) shall take place not less than twelve months after the passage of AGOA. In creating the Forum, the President is required to meet the following requirements: (1) Direct certain U.S. cabinet officials to meet with their counterparts of eligible African nations at the first Forum and include the Secretary-General of the Organization of African Unity to discuss trade and investment issues; (2) encourage, in consultation with Congress, participation of the private sector and American and African NGOs in the Forum; and (3) meet with the heads of state of eligible African nations not less than once every two years beginning in the first year after the passage of AGOA. The section further provides for the dissemination of information about the Forum by the United States Information Agency. Funds necessary to carry out this section are authorized.

SECTION 7. UNITED STATES-SUB-SAHARAN AFRICA FREE TRADE AREA

Not in HIRC jurisdiction.

SECTION 8. ELIMINATING TRADE BARRIERS AND ENCOURAGING EXPORTS

Not in HIRC jurisdiction.

SECTION 9. GENERALIZED SYSTEM OF PREFERENCES

Not in HIRC jurisdiction.

SECTION 10. INTERNATIONAL FINANCIAL INSTITUTIONS AND DEBT REDUCTION

Several of the following provisions fall within the jurisdiction of the Committee on Banking and Financial Services and are included in AGOA pursuant to a request by the Chairman of that Committee, Mr. Leach. Subsection (a) expresses the sense of Congress that the U. S. Executive Directors at the International Bank for Reconstruction and Development, the International Monetary Fund and the African Development Bank work to strengthen the private sector, the reduction of trade barriers, economic reform, the eradication of poverty as well as deep debt reduction in eligible countries under the “Heavily Indebted Poor Countries” (HIPC) initiative. Subsection (b) expresses the sense of Congress that whatever debt relief is provided under HIPC it be made through grants rather than through extended term debt.

Subsection (c) contains an expression of support for a number of the initiatives of the Executive Branch including business partnerships, technical assistance, agricultural market liberalization, trade promotion and trade in services.

SECTION 11. SUB-SAHARAN AFRICA EQUITY AND INFRASTRUCTURE FUNDS

Subsection (a) expresses the sense of Congress that OPIC, within one year of the date of enactment of this Act, shall launch two or more equity funds in support of projects in sub-Saharan Africa. Subsection (b) describes the structure and types of these funds, including provisions for a \$150 million equity fund and a \$500 million infrastructure project fund. The Corporation is directed to ensure that both funds are used to provide support in particular to women entrepreneurs and to maximize employment opportunities for poor individuals.

SECTION 12. OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK INITIATIVES

Section 12(a) amends Section 233 of the Foreign Assistance Act of 1961 to direct the Board of the Overseas Private Investment Corporation to increase its programs and financial commitments in sub-Saharan Africa including through the establishment of an advisory committee assisting the Board in the development of policies and programs toward sub-Saharan Africa. The advisory committee shall terminate after four years. Within six months of the date of enactment of this Act, the OPIC Board shall submit to Congress a report on its implementation of this section and the findings and recommendations of the advisory board. Annually thereafter for the next four years, in its annual report to Congress, OPIC shall provide updates about its implementation and recommendations of the advisory committee.

Pursuant to Section 12(b) the Export-Import Bank is also directed to increase its loan, guarantee and insurance programs to sub-Saharan Africa, consistent with its other credit standards, and to establish an advisory committee on sub-Saharan Africa with the same mandate life span and periodic reporting requirements under the previous subsection.

SECTION 13. ESTABLISHMENT OF ASSISTANT UNITED STATES TRADE
REPRESENTATIVE FOR SUB-SAHARAN AFRICA

Not in HIRC jurisdiction.

SECTION 14. EXPANSION OF THE UNITED STATES AND FOREIGN
COMMERCIAL SERVICE IN SUB-SAHARAN AFRICA

This section expresses the sense of Congress that the Foreign Commercial Service of the Department of Commerce should expand its presence in sub-Saharan Africa by increasing the number of posts and personnel it allocates to that region. Not more than 120 days after the enactment of the bill, it directs the Secretary of Commerce to report on the feasibility of increasing the presence of the Foreign Commercial Service in Africa.

SECTION 15. REPORTING REQUIREMENT

This section requires the President to submit to Congress, within one year of the enactment of AGOA, and again not later than the end of each of the next four years, a report on the implementation of AGOA.

The Committee expects that these reports will detail the reasons why each specific country was deemed eligible or ineligible by the President for programs and benefits under AGOA. In particular, the extent to which each country has made progress on the criteria listed in subsection 4(a) should be included in the reports.

SECTION 16. SUB-SAHARAN AFRICA DEFINED

The Committee amended this list to reflect the new name, Democratic Republic of Congo, of the former Republic of Zaire.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

FOREIGN ASSISTANCE ACT OF 1961

* * * * *

PART I

* * * * *

CHAPTER 2—OTHER PROGRAMS

* * * * *

SEC. 233. ORGANIZATION AND MANAGEMENT.—(a) * * *

* * * * *

(e) *ADVISORY COMMITTEE.*—*The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the establishment and use of an advisory com-*

mittee to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the advisory committee shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The advisory committee shall terminate 4 years after the date of the enactment of this subsection.

* * * * *

CHAPTER 10—DEVELOPMENT FUND FOR AFRICA

* * * * *

SEC. 496. LONG-TERM DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA.—(a) * * *

* * * * *

(h) TYPES OF ASSISTANCE.—

(1) * * *

* * * * *

(3) *DEMOCRATIZATION AND CONFLICT RESOLUTION CAPABILITIES.*—Assistance under this section may also include program assistance—

(A) *to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and*

(B) *to strengthen conflict resolution capabilities of governmental, intergovernmental, and nongovernmental entities in sub-Saharan Africa.*

[(3)] (4) *OTHER ASSISTANCE.*—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with [paragraphs (1) and (2)] *paragraphs (1), (2), and (3).* Assistance consistent with the purpose of subsection (c) may also be furnished under this section to carry out the provisions of sections 103 through 106 of this Act.

* * * * *

(p) *WAIVER AUTHORITY.*—

(1) *IN GENERAL.*—*Except as provided in paragraph (2), the President may waive any provision of law that earmarks, for a specified country, organization, or purpose, funds made available to carry out this chapter if the President determines, subject to the notification procedures under section 634A, that the waiver of such provision of law would provide improved conditions for the people of Africa. The President shall notify the appropriate congressional committees, in accordance with the procedures applicable to reprogramming notifications under section 634A of this Act, at least 15 days before any determination under this paragraph takes effect.*

(2) *EXCEPTIONS.*—

(A) *CHILD SURVIVAL ACTIVITIES.*—*The authority contained in paragraph (1) may not be used to waive a provision of law that earmarks funds made available to carry out this chapter for the following purposes:*

(i) *Immunization programs.*

(ii) *Oral rehydration programs.*

(iii) *Health and nutrition programs, and related education programs, which address the needs of mothers and children.*

(iv) *Water and sanitation programs.*

(v) *Assistance for displaced and orphaned children.*

(vi) *Programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria, and other diseases.*

(vii) *Basic education programs for children.*

(viii) *Contribution on a grant basis to the United Nations Children's Fund (UNICEF) pursuant to section 301 of this Act.*

(B) *REQUIREMENT TO SUPERSEDE WAIVER AUTHORITY.—The provisions of this subsection shall not be superseded except by a provision of law enacted after the date of the enactment of the African Growth and Opportunity Act which specifically repeals, modifies, or supersedes such provisions.*

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TRADE ACT OF 1974

* * * * *

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

* * * * *

SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

(a) *ELIGIBLE ARTICLES.—*

(1) *DESIGNATION.—*

(A) * * *

* * * * *

(C) *ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—The President may provide duty-free treatment for any article set forth in paragraph (1) of subsection (b) that is the growth, product, or manufacture of an eligible country in sub-Saharan Africa that is a beneficiary developing country, if, after receiving the advice of the International Trade Commission in accordance with subsection (e), the President determines that such article is not import-sensitive in the context of imports from eligible countries in sub-Saharan Africa. This subparagraph shall not affect the designation of eligible articles under subparagraph (B).*

[(C)] (D) *THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.*

(2) *RULE OF ORIGIN.—*

(A) * * *

* * * * *

(C) *ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.*—For purposes of determining the percentage referred to in subparagraph (A) in the case of an article of an eligible country in sub-Saharan Africa that is a beneficiary developing country—

(i) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A); and

(ii) the cost or value of the materials included with respect to that article that are produced in any beneficiary developing country that is an eligible country in sub-Saharan Africa shall be applied in determining such percentage.

* * * * *

(c) **WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.**—

(1) * * *

(2) **COMPETITIVE NEED LIMITATION.**—

(A) * * *

* * * * *

[(D) **LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.**—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.]

(D) *LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.*—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any eligible country in sub-Saharan Africa.

* * * * *

[SEC. 505. DATE OF TERMINATION.

[No duty-free treatment provided under this title shall remain in effect after May 31, 1997.]

SEC. 505. DATE OF TERMINATION.

(a) *COUNTRIES IN SUB-SAHARAN AFRICA.*—No duty-free treatment provided under this title shall remain in effect after May 31, 2007, with respect to beneficiary developing countries that are eligible countries in sub-Saharan Africa.

(b) *OTHER COUNTRIES.*—No duty-free treatment provided under this title shall remain in effect after May 31, 1997, with respect to beneficiary developing countries other than those provided for in subsection (a).

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SEC. 507. DEFINITIONS.

For purposes of this title:

(1) * * *

* * * * *

(6) *ELIGIBLE COUNTRY IN SUB-SAHARAN AFRICA.*—*The terms “eligible country in sub-Saharan Africa” and “eligible countries in sub-Saharan Africa” means a country or countries that the President has determined to be eligible under section 4 of the African Growth and Opportunity Act.*

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SECTION 2 OF THE EXPORT-IMPORT BANK ACT OF 1945

SEC. 2. (a) * * *

(b)(1) * * *

* * * * *

(9)(A) *The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank’s financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.*

(B)(i) *The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).*

(ii) *The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.*

(iii) *The advisory committee shall terminate 4 years after the date of the enactment of this subparagraph.*

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